

**April 22, 2004**

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**IN THE SUPREME COURT OF THE STATE OF IDAHO**

## 2004 Opinion No. 42

**TAREK L. HAW, M.D.,**

**Plaintiff-Appellant-Cross  
Respondent,**

**Docket No. 29566**

**V.**

**IDAHO STATE BOARD OF MEDICINE,**

### Defendant-Respondent-Cross Appellant.

Appeal from the District Court of the Fourth Judicial District of the State of Idaho, Ada County. Hon. Duff D. McKee, District Judge.

Hawley, Troxell, Ennis & Hawley, Boise, for appellant-cross respondent Tarek L. Haw.

Urunga & Urunga, Boise, for respondent-cross appellant Idaho State Board of Medicine.

In a unanimous opinion the Idaho Supreme Court affirmed in part and reversed in part a decision of the Idaho State Board of Medicine.

On October 5, 2001, the Idaho State Board of Medicine (Board) filed a complaint against Dr. Tarek Haw alleging practice improprieties in violation of Idaho Code § 54-1814(7). Prior to issuing a recommendation on the merits of the case, the Board's hearing officer entered a protective order prohibiting Dr. Haw from communicating with any expert witness or placing any advertisements in any newspapers identifying any witness by name. While the matter was still pending before the Board, Dr. Haw placed

two advertisements in *The Idaho Statesman*. One of the ads specifically identified one of the Board's expert witnesses by name.

Ultimately, the hearing officer found that the frequency and dosage of injectable hormones employed by Dr. Haw violated the standard of care under Idaho Code § 54-1814(7). The hearing officer also found that Dr. Haw violated the protection order by placing the two advertisements in the newspaper.

Based on the hearing officer's findings of fact and conclusions of law, the Board entered its final order permitting Dr. Haw to continue his medical practice, but imposing a permanent restriction that he not treat any female patient with injectable hormone therapy. The Board also imposed a \$10,000 fine for each violation of the protective order totaling \$20,000. Lastly, the Board imposed the requirement that Dr. Haw pay all costs associated with the investigation and prosecution of the matter incurred by the Board.

Dr. Haw appealed the Board's decision to the district court. The district court affirmed the Board's restriction of Dr. Haw's license, but reversed the Board's imposition of fines, costs and fees. Dr. Haw now appeals and the Board cross appeals the district court's decision.

In an opinion released today, the Idaho Supreme Court affirmed the order of the Board permanently restricting Dr. Haw's license to practice medicine in Idaho. The Court however reversed the Board's imposition of fines and remanded the matter for further proceedings.